



Benefit Services Division
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May 7, 2008

Name, Title
Name of School District
Name County Schools

Via Fax Number: XXX-XXX-XXXX

Dear Ms/Mr.:

This letter provides additional information about the temporary employment of CalPERS retired members.

Circular Letter 200-181-04 was issued on September 3, 2004 to inform all employers that temporary employment of a service retired member is not allowed if the service retired member is younger than the normal retirement age unless both of the following conditions are met:

- There is no verbal or written agreement to return to work as a retired annuitant between the retired member and employer before the retired member retires.
- There is a bona fide break in separation of 60 days between the retired member's retirement date and the date the temporary employment as a retired annuitant begins.

The normal retirement age for CalPERS purposes is the highest benefit formula age for the retired member's retirement formula. For example: the highest benefit formula age is 50 for the 2% or 3% at 50 retirement formulas, 55 for 2% or 3% at 55 retirement formulas or 60 for the 2% or 3% at 60 retirement formulas. If the retired member has more than one retirement formula, the highest benefit formula age applies, even if the retired member's service in that formula was with a previous CalPERS employer and/or several years prior.

After the service retired member has satisfied the bona fide break in service requirement, he or she may accept a temporary appointment. If the service retired member attained normal retirement age prior to retirement, he or she may accept a temporary appointment the day after their retirement date.

Here is a brief description of two types of temporary appointments that a school employer may use to employ a CalPERS retired member and copies of the Government Code sections.

Government Code section 21221(h) permits the appointment of a retired member by the governing body of a contracting agency to a position deemed by the governing body to be of limited duration and requiring specialized skills or during an emergency to prevent stoppage of public business. Generally, these appointments are used for "Interim" positions pending recruitment of a permanent appointment to fill the vacancy. An appointment under Government Code section 21221(h) is limited to 960 hours in a fiscal year; however, there is no requirement that the rate of pay be comparable to that paid to an employee doing similar duties. Although, a one time extension of the employment for longer than 960 hours may be requested for a section 21221(h) appointment; the retired member cannot be employed in the position more than 12 months, with or without the extension to work more than 960 hours.

To request an extension for appointments made under Government Code section 21221(h), the governing body of the contracting agency (***CalPERS considers County Offices of Education to be contracting agencies whose governing boards must submit the resolution for school employers***) must submit a written request including all the details about the situation with a resolution, passed by the governing body, requesting the CalPERS board to act upon the extension request. The request must be received before the retired member reaches the 960 hour maximum. A sample resolution is enclosed. Please submit the request with resolution to my attention by mail or by fax.

Government Code section 21229 permits the employment of CalPERS retired members in an emergency to prevent stoppage of work or because the retired member has specialized skills needed to perform work of limited duration. Employment is limited to 960 hours a fiscal year and the rate of pay must be comparable – not less than the minimum and not in excess of – that paid other employees performing comparable duties. There is no extension allowed to the number of hours a retired annuitant may work under this section. However, if the retired member's specialized skills are required next year, an agency may temporarily appoint the retired member again, as long as the retired member did not collect unemployment insurance compensation for the previous year's employment.

If you have any questions, please contact me. My direct number is (916) 795-3120 and my fax number is (916) 795-0385.

Sincerely,

Liz Burke
Retirement Program Specialist II
Retirement Support

Attachments (11)

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